IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.680 OF 2007

Smt. Pratibha Ramkrishna Pokale .....Petitioner.

V/s

Suvidya Prasarak Sangh & Ors. .....Respondents.

Mr. Mihir Desai for the Petitioner.

Ms. I.M. Koparkar for Respondent Nos. 1 to 3.

Ms. Mamta Sadh, AGP for Respondent No.4.

CORAM: V.M. KANADE, J.
DATE : 28th June, 2007

P.C.:-

1. Heard the learned Counsel for the Petitioner, the learned Counsel for Respondent Nos. 1 to 3 and the learned AGP appearing on behalf of the State.

2. Petitioner is challenging the order passed by the Presiding Officer, School Tribunal, Mumbai whereby appeal filed by the Petitioner for seeking reinstatement with full back wages has been dismissed by the Tribunal.

3. Petitioner was working with Respondent No.2 since October, 2000 as a permanent assistant teacher. A complaint was received by the management from her colleagues and staff and also from the parents of the

students who were studying in the said school. It was alleged that the Petitioner used to misbehave and insult the other staff members of the school and that she used to beat the students. Various instances of beating by the teacher were reported to the management. Written complaints were given by the parents of the students studying in the school complaining of ill-treatment by the teacher. Thereafter, on 07/02/2004, respondent No.1 issued a statement of allegations signed by M.G. Ranade. In the said statement, it was alleged that since 2002 various memos were issued to the Petitioner and that she had used unparliamentary words against the staff members. The allegation was also made regarding corporeal punishment given to the students. Petitioner gave reply to the said statement by her letter dated 13/02/2004 denying the said allegations.

4. Thereafter, on 16/03/2004, a charge-sheet was issued to the Petitioner and inquiry Committee was constituted and, finally, inquiry was held and the inquiry Committee gave its findings holding that she was guilty as charged. Petitioner gave a reply to the said report which is submitted by the Committee and the management decided to terminate the services of the Petitioner and, accordingly, order of termination dated 23/08/2004 was served on the Petitioner. Thereafter, Petitioner filed an appeal against the order of termination. The School Tribunal, after considering the evidence on record, dismissed her appeal.

5. The learned Counsel appearing on behalf of the Petitioner has submitted that only two parents have made complaint against the Petitioner. He invited my attention to the statement of the said two parents which was recorded during the inquiry. He submitted that vague allegations were made against the Petitioner and the parents of the students had not alleged that the Petitioner had given corporeal punishment to the students. He submitted that the allegations against the Petitioner were not of a serious nature and that the punishment which was given to her was grossly disproportionate to the allegations which were made against her. He submitted that the Petitioner had worked for 16 years in various schools and that, prior to 2002, no allegations were made against her. He submitted that, therefore, the material which was on record was not sufficient to come to the conclusion that the Petitioner was guilty of the charges which were leveled against her and that the findings of the inquiry Committee were perverse and not supported by the legal evidence. He submitted that the appellate court had erred in not taking into consideration these vital aspects of the case and, therefore, the said order was liable to be set aside. He further submitted that the inquiry Committee was constituted in total violation of the MEPS Rules, 1981 and that the Committee has not followed the procedure laid down under MEPS Act. He further submitted that the managing Committee or CEO have not given any specific reason on the basis of which it came to the conclusion that there was prima facie evidence to show

that the allegations made against the petitioner had been proved.

6. It is not possible to accept the submissions made by the learned Counsel appearing on behalf of the Petitioner. In the charge-sheet dated 16/03/2004 which was served on the Petitioner, in all, 18 charges were leveled against her. The first five charges related to giving corporeal punishment or beating the students. Charge No.6 was regarding arrogant and indecent behaviour with the parents. Next charge No.(II) (1) & (2) was regarding obscene words which were used by her to insult her colleague Smt. Sujaya Pandit and assistant teacher Shri Yogesh Keni. Similar allegations were made in charge No.(II)(3),(4) & (5). Charge No.(II)(6) & (7) is regarding ill-treatment by the Petitioner to the staff and students. Charge No (III) was regarding negligence in performance of her duties. This is divided in five parts and various instances have been mentioned. It was also mentioned that the parents of the students had assembled in the ground of the school and had expressed their serious displeasure over the conduct of the Petitioner and since the situation had gone out of control, Headmistress had to summon the police and only when the assurance was given by the Headmistress that the petitioner would not be sent to the class, the parents calmed down and they permitted their children to attend the classes. Thereafter, inquiry was held and sufficient opportunity was given to the Petitioner to cross-examine the witnesses and all the charges were held

to be proved. The management examined 11 witnesses including parents of students who were beaten up by the Petitioner herein. It has come on record that on account of the misbehaviour of the Petitioner with the students, the parents had brought a morcha on the school. Considering the material on record, the Tribunal held that the charges against her were proved and, therefore, it held that the decision of the Committee was not perverse.

7. Under these circumstances, I do not see any reason to interfere with the well reasoned order passed by the Tribunal. The charges which are leveled against the Petitioner are very serious and, as a result of her misbehaviour, the parents of the students had threatened the management that they would not send their children to the school. Taking into consideration seriousness of the charges which are leveled against the Petitioner and the report which is submitted by the inquiry Committee which has been accepted by the appellate Court, in my view, punishment which is given to the Petitioner is not disproportionate. Hence, there is no merit in the submissions made by the learned Counsel appearing on behalf of the Petitioner. Petition is, therefore, dismissed in limine.

8. Petitioner, however, is at liberty to approach the management and make representation, asking the management to convert the order of termination into that of

compulsory retirement. If such a representation is made, management may take decision in accordance with law.

(V.M. KANADE, J.)